FINANCE COMMITTEE

AGENDA

18th Meeting, 2005 (Session 2)

Thursday 8 September 2005

The Committee will meet at 10.00 am in Committee Room 4 to consider the following agenda items:

1. **Declaration of interests:** The new member of the Committee will be invited to declare any relevant interests.

2. **Financial Memorandum:** The Committee will consider its approach to the scrutiny of the Financial Memorandum for the Human Tissue (Scotland) Bill.

3. **St Andrew’s Day Bank Holiday (Scotland) Bill:** The Committee will take evidence on the Financial Memorandum from – Dennis Canavan MSP; Maureen Conner, Parliamentary Researcher; and Rodger Evans, Non-Executive Bills Unit, Scottish Parliament.

Susan Duffy
Clerk to the Committee
The papers for this meeting are:

**Agenda Item 2**

Paper from the Clerk on approach to Financial Memorandum

*Human Tissue* (Scotland) Bill and associated documents
(circulated to members in hard copy only; electronic versions available via Parliament website)

**Agenda Item 3**

Written submissions on the St Andrew’s Day Bank Holiday (Scotland) Bill from:
- Federation of Small Businesses in Scotland
- Scottish Retail Consortium
- Convention of Scottish Local Authorities

*St Andrew’s Day Bank Holiday* (Scotland) Bill and associated documents available online (circulated to members in hard copy only; electronic versions available via Parliament website)

*SPICe Briefing* on St Andrew’s Day Bank Holiday (Scotland) Bill available online

PRIVATE PAPER
Summary
This paper sets out proposed approach to the scrutiny of Financial Memorandum for the Human Tissue (Scotland) Bill which was introduced into the Scottish Parliament on 3 June 2005 and the Health Committee has been designated the lead committee for the Bill at Stage 1. Members are invited to agree the approach for the Bill.

Background
The Finance Committee has agreed to adopt three levels of scrutiny for Financial Memoranda as follows:

Level 1: the Committee circulates a questionnaire to organisations, bodies and individuals on whom costs arising from the Bill are likely to fall. Responses are forwarded to the lead committee on the Bill.

Level 2: the Committee seeks written evidence from organisations, bodies and individuals on whom costs arising from the Bill are likely to fall and oral evidence from Scottish Executive officials. A written report is made to the lead committee on the Bill.

Level 3: the Committee seeks oral evidence from organisations, bodies and individuals on whom costs arising from the Bill are likely to fall and from Scottish Executive officials. A written report is made to the lead committee on the Bill.

The level of scrutiny depends on consideration of these key issues:
- the total value of costs and savings in relation to the Scottish Consolidated Fund which would result from the implementation of the Bill;
- the level of impact of the Bill on Scotland; and
- the number and type of organisations affected and the level of impact.

The Bill
1. The purpose of the Bill is to provide a new framework for organ donation and transplantation, hospital post-mortems, the removal, retention and use of body parts, anatomical examination and the public display of bodies.

2. The Bill would allow the written or verbal wishes of the deceased to have their organs donated, to be respected, and not allow the family a right of veto. The Bill would also protect children under the age of 16 for transplants other than for regenerative tissue (for example bone marrow). In addition, the Bill also requires authorisation from families or
a nominee for organ retention following post-mortem examination of deceased relatives.

3. The Executive intend to transfer the power for unrelated live transplants under the Human Tissue Act 2004 from the Unrelated Live Transplants Regulatory Authority to the Human Tissue Authority. It is not considered necessary for a separate Scottish body to be established, due to the number of unrelated live transplants in Scotland, and including any potential increase of such transplants. In addition, the Human Tissue Authority will be asked by Scottish Ministers to scrutinise Scottish cases. As the Human Tissue Authority as the power to charge other UK public authorities for carrying out these functions, the Scottish Executive will provide reimbursement for this scrutiny.

4. The Executive also intend to provide each hospital across Scotland with 100 leaflets and forms, for obtaining authorisation for adult and paediatric organ donation following post mortem examinations.

5. As such, training will be required for hospital staff to go through the form with the families. As there is no training in place at present, this will be provided for by the Executive and the agencies responsible for providing training to health professionals, to develop such a programme, and to ensure that it is consistent with training provided in England. While such training may already be available to some health professionals, the Executive intend to ensure that all health professionals in Scotland have access to a programme of training.

6. At present the HM Inspector of Anatomy for Scotland, England and Wales is funded through the Department of Health for the UK, while the Executive is responsible for paying his travel and subsistence to Scottish Schools of Anatomy. As this post is set to be included with the Human Tissue Authority’s role, the Executive will need to pay for funding of inspections.

7. The Financial Memorandum sets out approximate costs. In total, the Executive anticipates that additional costs to the Scottish Executive will be up to £325,000. A breakdown of these costs is as follows:

**Costs**

- Human Tissue Authority charges for scrutiny of transplant cases - £50,000 per annum;
- Cost of producing forms and leaflets for hospitals on organ donation - £250,000;
- Five inspections by HM Inspector of Anatomy a year, plus a contribution towards accommodation, and administrative costs, will come to approximately £20,000 - £25,000 per annum.

8. The Executive does not anticipate any additional costs as a result of an increase in post-mortems on the basis that staff and services are already in place.
9. The Financial Memorandum states that the additional costs on other bodies will be in terms of training provided to the health professionals on the leaflets for organ donation following post mortem examination. This will be funded by agencies responsible for providing training to health professionals in Scotland. While the Financial Memorandum does not name these agencies that the Executive intends to work with, it is understood that these are NHS Education for Scotland, and NHS Quality Improvement Scotland. NHS Education for Scotland is the body who provide continuous training to health professionals in Scotland. NHS Quality Improvement Scotland provides NHSScotland with advice and guidance on improving health care in Scotland and providing development programmes for staff.

10. The Executive states that while there may be an increase in organ transplants as a result of a potential increase in organ donation, this would be more cost effective than the cost of renal dialysis. In addition, the Executive does not expect the cost of operations following organ donation, and post-maintenance costs to be particularly high.

11. The Presiding Officer has decided that no financial resolution is required for this Bill.

Decision

12. Members are asked to agree that the Committee should adopt level one scrutiny for the Bill on the basis of the information contained in the Financial Memorandum, i.e. that it should take no oral evidence on the Financial Memorandum, but should instead seek written comments from relevant organisations (listed below) through its agreed questionnaire and then pass these comments to the lead committee. This will mean that the lead committee will be made aware of any concerns expressed by these organisations as the review is progressing.

13. Relevant organisations:
   - NHS Quality Improvement Scotland
   - NHS Education for Scotland
   - Scottish NHS Confederation

Kristin Mitchell
Assistant Clerk
Finance Committee
18th Meeting 2005 – Thursday 8 September 2005

St Andrew’s Day Bank Holiday (Scotland) Bill: Written Evidence Submissions

Background
1. Members will take evidence today from Dennis Canavan MSP, the Member responsible for the St Andrew’s Day Bank Holiday (Scotland) Bill. Requests for written evidence in the form of the Committee’s standard questionnaire on financial memoranda were sent to the Federation of Small Businesses in Scotland (FSB in Scotland), Scottish Retail Consortium (SRC), The Scottish Executive, Confederation of British Industry Scotland (CBI), Convention of Scottish Local Authorities (COSLA), Scottish NHS Confederation, and the Scottish Trade Union Congress (STUC).

2. Written responses were received from:
   - FSB
   - SRC
   - COSLA

3. These responses are attached.

Recommendation
4. Members are invited to consider the responses received to inform their questioning.

Susan Duffy
Clerk to the Committee
Federation of Small Businesses in Scotland

Introduction
The Federation of Small Businesses is Scotland’s largest direct member business organisation and campaigns for a social, economic and political environment in which small businesses can grow and prosper. As such, we welcome this chance to comment on the Financial Memorandum which accompanied the St Andrew’s Day Bank Holiday (Scotland) Bill.

Consultation
1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

We did not respond to the consultation on the Bill as we simply do not have the necessary resources to comment on proposals unless we are fairly sure that they will be introduced to Parliament.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Not applicable

3. Did you have sufficient time to contribute to the consultation exercise?

Not applicable

Costs
4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The Financial Memorandum suggests that there will be no ‘direct costs’ for business as employers can choose whether to grant the extra days holiday or not. However, in reality it will be extremely difficult for employers to not give St Andrew’s Day as a holiday or pay staff overtime rates to work on 30th November if the Bill were to be passed as worded. The Financial Memorandum does not even attempt to put a figure on this cost, but it is likely to exceed the combined cost to the public sector of £42million.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

The obvious way of reducing or eliminating the costs associated with the Bill would be to substitute St Andrews Day for one of the existing Bank Holidays, meaning that there would still be eight designated Bank Holidays.
6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Given our response to Question 4, we would have to say that it does not reflect the uncertainty associated with the extra costs.

Wider Issues
7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The last few years have seen huge changes in employment law and many new benefits for employees in terms of annual leave entitlement, the right to flexible working, and maternity and paternity leave extensions. Small businesses are still struggling to adapt to these changes and the cost of another day’s holiday is not put into context by the Memorandum.

Further, the law governing holiday entitlement is likely to change, with the Labour Party’s Manifesto for the 2005 General Election contained the following commitment:

“We have introduced, for the first time, an entitlement for every employee to four weeks’ paid holiday, and we propose to extend this by making it additional to bank holiday entitlement.” (pp27)

This can be interpreted as meaning that bank holiday entitlement will be given a statutory basis within the lifetime of the current administration at Westminster, and that all employees will have a legal right to four weeks paid leave plus a set number of bank holidays.

This change would mean that the Bill as introduced would ultimately result in Scottish employees enjoying greater holiday entitlement than in other parts of the UK, which would effectively be an extra cost for businesses based north of the border. It would also mean that there were significant ‘direct costs’ for business.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

If the holiday remained ‘optional’ but became more established it seems certain that more and more employees would expect it as a standard part of their contract which would obviously increase the associated costs.

For more information please contact Niall Stuart, Scottish Press and Parliamentary Officer.
Scottish Retail Consortium

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

The SRC was asked specifically by Dennis Canavan to provide estimates of the value of St Andrew’s Day as a bank holiday to the retail sector. The SRC had responded positively to the initial consultation but had not estimated the potential value of St Andrew’s Day to the sector.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

They have been reflected to a certain extent, however, when the SRC provided an estimate of the potential value of a bank holiday, it was based on the presumption that the bank holiday would fall on a Monday, as is traditionally the case. It would appear that the intention of the Bill is that the bank holiday would fall on whichever day of the week is St Andrew’s Day, apart from when it falls at the weekend, when it would be on a Monday. This means that the potential value of the bank holiday is more difficult to assess.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes. The proposal is straightforward, so little time was required to respond. The consultation period appeared to follow the standard timescales used by MSPs and the Scottish Executive when consulting. As there would be benefits of this bank holiday to the retail sector, the SRC was keen to respond.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The positive implications of the value of a bank holiday to the retail sector have been well reflected. The SRC did not make any submission on possible costs to the retail sector, as these would be offset by the benefits. It would also be impossible to estimate costs to the retail sector as an employer, as it would depend very much on the retailer concerned as they operate different policies with regard to employment and bank holidays.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

The costs of implementing the Bill would be outweighed by the benefits.
6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

It is extremely difficult to realistically estimate the costs of the Bill. This is because it is not yet known whether the bank holiday will be additional or will replace an existing bank holiday. It is also difficult to estimate because it depends on the approach taken by employers to the Bill as well as individual employees’ contracts.

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

The SRC has no comment to make on this matter.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

It is impossible to estimate these at this time.

Annex A

Scottish Retail Consortium Response to the Scottish Parliament Enterprise Committee's Request for Evidence on St Andrew's Day Bank Holiday (Scotland) Bill

The Scottish Retail Consortium (SRC) was launched in April 1999 as a retail trade association for the full range of retailers in Scotland, from the major high street retailers and supermarkets to a number of trade associations representing smaller retailers. As a sector, retailing in Scotland employs 261,000 people (one in ten of the workforce) in 26,500 outlets across Scotland, and in 2003 Scottish retail turnover was £20.6 billion, accounting for 13% of total Scottish turnover.

The retail sector is key to the revitalisation and renewal of urban and rural communities across Scotland. The SRC’s members provide a vital community service, a focus for physical regeneration, and sustained investment in people and places.

The SRC’s parent association is the British Retail Consortium (BRC) based in London and Brussels.

Bank holidays and the retail sector:
The retail sector has long recognised the increasing value of bank holidays to the vitality of our business. As shopping is now one of our most popular
leisure activities, bank holidays are extremely important to the sector, as they are traditionally a day to engage in leisure activities including shopping.

The retail sector is more competitive now than ever, with key events such as bank holidays gaining more and more relevance to the overall performance of a retailer. The number of people not only inside a store, but actually buying products within a store, on a bank holiday is truly a reflection of the health of that retail business. Bank holidays are established key focal dates in the retail calendar.

**The Scottish retail sector:**
Scotland’s retail sector has been growing at a faster rate than the sector south of the border for some time, with the UK as a whole experiencing decreases in retail sales in recent months. However, the sector in Scotland is under extreme pressure with margins decreasing as consumers become increasingly bargain-conscious. Any opportunities to grow the sector would be extremely welcome.

![Retail Sales Chart - Scotland & UK](chart)

Source: SRC/RBS Scottish Retail Sales Monitor, BRC/KPMG Retail Sales Monitor

**Retail tourism:**
VisitScotland and the SRC have worked closely together to ensure that each can benefit from the other. In fact, Philip Riddle, Chief Executive of VisitScotland said that their research indicates the importance of retail to the overall experience of our visitors, with 61% of overseas tourists citing shopping as a main activity of a holiday to Scotland with almost half of UK visitors following suit.¹

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¹ Scottish Retail Review, published by the SRC and Centre for Study of Retailing in Scotland, April 2005
It is also important to note that Scotland benefits from international recognition of its produce, with 80% of foreign tourists buying either Scottish whisky or woollen goods during their holiday, and almost one in three buying Scottish fashion products.

These facts indicate that with a joined-up approach by VisitScotland, retailers and other agencies, the potential for a St Andrew’s Day bank holiday to attract tourists from other countries would have massive benefits for retailers and for elements of the tourism industry.

**Estimated value of St Andrew’s Day Bank Holiday:**
Based on the assumption that such a bank holiday would fall on a Monday, it can be estimated that sales could be worth £88 million.

Using the monthly data that is collected by the Scottish Retail Consortium/Royal Bank of Scotland Scottish Retail Sales Monitor, and knowledge of the patterns of shopping during the week, the usual Monday in Scotland experiences around £49 million worth of sales.

Adding 2% for sales growth and inflation in 2004 to the Scottish Executive’s 2003 figure for retail turnover gives an estimate of £21.0 bn sales in Scotland last year, equivalent to a weekly average of £404 mn. Then taking off a rough 10% to exclude the boost from the busy weeks around Easter and Christmas gives a more representative figure for an ‘average’ week of about £364 mn.

How this is spread across the days of the week can be gauged by footfall data (from SPSL) which show that last year 13.5% of a normal week’s sales in Scotland were on a Monday. So applying this to the weekly average of £364 mn gives retail sales of £49 mn on a normal Monday.

There is no overall rule for estimating the impact of a bank holiday on these sales, as it depends on the time of year and the type of retailer. For instance, a DIY retailer could benefit from a 100% increase in sales on May Bank Holiday, but is less likely to experience this type of boost from a bank holiday late in the year. However, department stores, high street retailers and fashion retailers would anticipate more of a boost from a bank holiday on St Andrew’s Day, with some reaching up to 80% increases.

Adding an 80% increase to the usual Monday sales figure of £49 mn would give a possible total of sales on a St Andrew’s Day bank holiday of some £88 mn.

**Retail Employees and Bank Holidays:**
There is currently no law regarding retail, or any other, employees requiring employers to grant a day off, or compensation for employees who do work on bank holidays.
As such, there is no consistent approach that retailers take with regard to work on bank holidays. It is an individual business decision taken by each retailer.

Staff are required to work on a bank holiday if they would normally work on that day in an ordinary working week, unless their contract specifically states that they are entitled not to work on bank holidays. However, due to traditions surrounding bank holidays, many employers do compensate staff who work on bank holidays, by offering extra pay such as time-and-a-half or double pay, and some may give time-off-in-lieu in addition or in place of this.

Some companies may offer a rota system whereby staff will only work certain bank holidays which is negotiated with staff at the beginning of the year or in the period preceding individual bank holidays.

A further approach that is taken by many employers is to offer a voluntary system, whereby staff are asked if they would like to volunteer to work on a bank holiday. This allows members of staff who want to earn extra cash to do so, whilst giving others the chance to spend time at home if they choose to do so.

**Conclusion:**
In conclusion the majority of retailers feel that Bank Holidays are good for retail and believe that there is room for more public holidays in the calendar. The addition of a St Andrew’s Day Bank Holiday is an ideal opportunity to reflect upon and celebrate our national identity, whilst boosting Scottish retail and tourism.
Convention of Scottish Local Authorities

Consultation
1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

COSLA gave informal verbal comments. We did not comment on the financial assumptions made.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Costs
4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The Bill focuses on the staff costs which are likely to be incurred by local authorities. However, it does not discuss the potential costs which may arise due to providing additional services such as recreation and leisure, street cleaning and additional policing.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

COSLA would expect that any additional costs which would arise due to the introduction of additional legislation will be met by the Scottish Executive.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum does not fully encapsulate the uncertainty and differing views of local authorities regarding estimated costs and the timescales which these may arise within. The potential costs of any additional bank holiday will be affected by whether this is in addition to existing statutory bank holidays or whether it will be in substitution of an existing holiday. The full details of the legislation will impact on the estimated costs and the timescales concerned.

Wider Issues
7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?
As referred to above the costing appears to have focused exclusively on the possible staff costs of the Bill. While some authorities do not believe there will be additional costs arising from this Bill it does not appear that the Financial Memorandum has fully assessed this issue.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

As stated above future costs associated with the Bill are dependent on the legislation introduced by parliament. It is therefore not possible to quantify the full costs of the legislation until the final position is clear.